

The operationalization of cosmopolitanism in criminological research with a specific focus on European detention conditions

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Outline

- Background
- Cosmopolitanism
 - > Operationalization
- Europe as a normative actor
- Conclusion

Background

Title PhD project: State punishment in cosmopolitan Europe

- Increasing role of Europe as a penal actor
 - Transfer from the national to the transnational European level
- Globalization
 - Increased global connectivity
 - Rise and gradual juridification of cosmopolitan values
 - Network of international bodies
 - Role of the nation state?
 - Rise of new paradigms in social sciences: cosmopolitanism
- Discussion in penology: divergence versus convergence

Cosmopolitanism

- Countering methodological nationalism
- An appreciation of difference where diversity is not the problem but rather the solution
 - Certain level of norms to regulate the treatment of difference
 - Common problems need common solutions

-> Human Rights

- Conventions
- ECtHR & CJEU
- Semi-judicial mechanisms: PC-CP, CPT

Key in developing European detention norms and standards

Operationalization

- Focus on the European level (countering methodological nationalism)
- Actor approach -> Cosmopolitan elites creating European detention norms (Policy entrepreneurs)
 - » Focus on the creation of ideas <-> transfer of ideas (policy transfer)
 - » Key questions:
 - Which actors are involved in this process?
 - What are the norms, ideas, background, principles of these actors?
 - What binds them and what divides them?
 - How do these actors look at their 'task'?
- Institutional approach
 - Understanding decision making & policy processes

Europe as a normative power

- After WW2: new legal and normative order
 - ECHR
- CoE
 - European Prison Rules (PC-CP)
 - CPT
 - ECtHR
- EU
 - Facilitator for interstate cooperation in criminal matters
 - Justice and Home Affairs: unity in diversity
 - Mutual Recognition (MR) principle
 - Assumption: every Member State is equally good because they all ratified the ECHR
 - Green Paper on Detention -> detention conditions can have a direct impact on the MR principle -> Only introduce minimum standards -> race to the bottom?
 - Reception Conditions Directives for asylum seekers <-> Practice

Conclusion

- Cosmopolitanism: including otherness based on common norms
- Juridification of cosmopolitan values: human rights
- Focus on the European framework
 - Countering methodological nationalism
- Operationalization of the concept of cosmopolitanism:
 - Actor approach: the process of norm creation by a cosmopolitan elite
 - Institutional approach: policy and decision making process

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